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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,828

12/29/2003

Han-Hsing Liu

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EXAMINER

LE, DUNG ANH

ART UNIT

PAPER NUMBER

2818

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,828

Applicant(s)

LIU, HAN-HSING

Examiner

DUNG A. LE

Art Unit

2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-25 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

In Amendment dated 5/13/2005, Claims 1- 22 and 26 are cancelled. Claims 21-24, 27-29 and 31 are amended.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Oath/Declaration

The oath/declaration filed on 12/19/2003 is acceptable.

Specification

The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 23, 28 and 30 are rejected under 35 USC 102 (b) as being anticipated by Liaw (6448140 B1).

Liaw teaches a polycide gate structure (figs. 1-5 and related texts), comprising: (1) a polysilicon structure 3 formed upon a substrate 1 and having laterals; (2) an insulating structure 7c/9c disposed on said laterals of said polysilicon structure for insulating said polysilicon structure; (3) a silicide structure 4 formed upon said polysilicon structure and having laterals; and (4) a protecting structure 5 (col 5. line 30) formed by means of chemical vapor deposition (CVD) on said laterals of said silicide structure for protecting said silicide structure.

Regarding claim 23, wherein said insulating structure 7c/9c (col. 5. line 10) is silicon dioxide (SiO_2).

Regarding claim 28, wherein said protecting structure 5 (col 5, line 1) is silicon nitride (SiN_x) .

Regarding claim 30, wherein said insulating structure is formed by means of a dry oxidation method (col. 5, lines 10-15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Liaw in view of Lin et al. (2005/0156254 A1).

Regarding claim 24, Liaw teaches the claimed invention as applied to claim 22 except for the silicide structure upon the polysilicon structure comprises a barrier, a tungsten layer and a silicon nitride (SiN_x) layer in sequence as cited in current claim.

Lin et al. teaches the silicide structure upon the polysilicon structure 12 comprises a barrier 22, a tungsten layer 24 and a silicon nitride (SiN_x) layer 26 in sequence as cited figures 1-7 and related texts.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to the silicide structure upon the polysilicon structure comprises a

barrier, a tungsten layer and a silicon nitride (SiN_x) layer in sequence in Liaw 's method because there can be prevent occurrence of holes in the polysilicon film, which would otherwise be induced by implantation , heat treatment to be performed in subsequent processes.

Regarding claim 25, wherein the barrier is titanium nitride 22 in Lin (TiN).

Claims 27 and 28 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Liaw in view of the following remark.

Regarding claim 27, Liaw teaches the claimed invention as applied to claim 22 including protecting structure 5 having the thickness range 1500-3000 Angstrom, but fails to teach their thicknesses ranged from 50 to 500 Angstrom as cited in the claim.

It would have been obvious to one of ordinary skill in the art of making semiconductor devices to form the workable or optimal ranges for the protecting structure having a modified thickness of 1500-3000 Angstroms, the protecting structure having a modified thickness of 20 - 50 Angstroms through routine experimentation and optimization to obtain optimal device performance.

Regarding claims 29, 31 and 32.

Liaw does not disclose “the polysilicon structure is defined via an anisotropic dry

etcher, the silicide structure is defined via anisotropic dry etcher and the protecting structure is defined via an anisotropic dry etcher. However, the limitations "structure is defined via anisotropic dry etcher" in current claims are taken to be a product by process limitation and consider non-limitation. In a product-by-process claim, it is the patentability of the claimed product and not of the recited process steps which must be established. Therefore, when the prior art discloses a product which reasonably appears to be identical with or only slightly different than the product claimed in a product-by-process claim, a rejection based on sections 102 or 103 is fair. The Patent Office is not equipped to manufacture products by a myriad of processes put before it and then obtain prior art product and make physical comparisons therewith. In *re Brown*, 173 USPQ 685 (CCPA 1972). Also, a product by process claim directed to the product per se, no matter how actually made, In *re Hirao*, 190 USPQ I S at 17 (footnote 3). See In *re Fessman*, 180 USPQ 324, 326 (CCPA 1974); In *re Marosi et al.*, 218 USPQ 289, 292 (Fed. Cir. 1983); and particularly In *re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985), all of which make it clear that it is the patentability of the final structure of the product "gleaned" from the process steps, which must be determined in a "product by process" claim, and not the patentability of the process. See also MPEP 2113. Moreover, an old and obvious product produced by a new method is not a patentable product, whether claimed in "product by process" claims or not.

When responding to the office action, Applicants' are advice to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) day from the day of this letter. Failure to respond within the period for response will cause the application to become abandoned (see M.P.E.P 710.02(b)).

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung A. Le whose telephone number is (571) 272-1784. The examiner can normally be reached on Monday-Tuesday and Thursday 6:00am- 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The central fax phone numbers for the organization where this application or proceeding is assigned are (571)272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DUNG A. LE 
Primary Examiner
Art Unit 2818